



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/142334

PRELIMINARY RECITALS

Pursuant to a petition filed July 12, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on August 09, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner's premium of \$137/month for BadgerCare Plus (BCP) benefits effective August 1, 2012.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Belinda Bridges

Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner's household size is 5 which includes 2 adults and 3 minor children.

3. On July 2, 2012, the agency issued a Notice of Decision to the Petitioner notifying her that her BCP benefits would change effective August 1, 2012. Specifically, the notice indicates that Petitioner's three minor children receive benefits with no monthly premium and Petitioner and her husband are eligible for benefits but must pay a premium of \$137/month.
4. Petitioner's monthly household gross earned income for purposes of is \$3,479.60. Her monthly rent expense is \$850. She pays utilities. The income limit for the program is \$4,501.98 for a household of five. The premium limit is \$2,993.60.
5. On July 12, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Effective July 1, 2012, Wisconsin changed the premium limits for caretaker parents participating in BCP. See, Exhibit #3, Operations Memo # 12.-25; see also, Wis. Stat. § 49.471. And see, 2011-13 Wisconsin State Budget, Act 32, generally. The Legislature acted at that time to decrease the premium required threshold level for adult parents and caretaker relatives from 150% of the federal poverty level ("FPL") downwards to 133% of the federal poverty level. For a household of 5 persons, as here, that means that for gross income between \$3,376.25 and \$3,826.41, the monthly premium range is \$135 - \$172. See, Exhibit #3. This 5 person household's income is at 154.59% of the FPL for a household of its size. For such a household, the Department has determined that the premium due is \$137 per month, i.e., at the lower end of the stated wage range and premium range under these facts. See, Exhibit #3. And see, BCP Medicaid Handbook, App. § 19.3. I can find no error. Nor has the Petitioner pointed to any specific error in the computations.

The Petitioner has requested equitable relief from the BCP regulations and policies which dictate the amount of the premium. She testified that she and her husband got behind on paying household bills because she had to take a leave of absence from her job and was then terminated from employment for a period before finding another job. She stated that her husband was on W-2 but recently found a job. She requested that her household's situation be taken into consideration with regard to her BCP benefits, particularly with regard to the amount of the premium. She stated that she needs all available resources in order to pay current expenses as well as rent and other expenses that they fell behind on.

However, the Legislature has spoken, and the premium threshold has changed as a matter of law and policy. The Division's administrative law judges lack the power of a court of equity. Rather, I must follow the "four corners" of the law. The current law directs the premium level determined by the Department. I am without authority to change the amount of the premium for equitable purposes. I recognize the difficult position of the Petitioner but I have no authority to grant the relief she requests.

CONCLUSIONS OF LAW

The agency properly determined a monthly premium for the Petitioner of \$137/month effective August 1, 2012.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative

Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

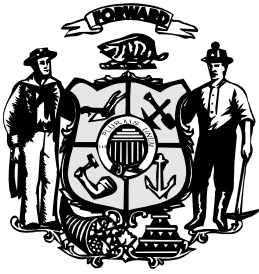
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 7th day of September, 2012

Debra Bursinger
Administrative Law Judge
Division of Hearings and Appeals

c: Milwaukee Enrollment Services - email
Department of Health Services - email



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 7, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability